

Federal Communications Commission

DA 99-1239

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of Section 73.606(b),) MM Docket No. 99-45
Table of Allotments,) RM-9401
TV Broadcast Stations.)
(El Dorado and Camden, Arkansas))

REPORT AND ORDER
(Proceeding Terminated)

Adopted: June 16, 1999

Released: June 25, 1999

By the Chief, Allocations Branch:

1. Before the Commission for consideration is the Notice of Proposed Rule Making ("Notice"), 14 FCC Rcd 2360 (1999), issued in response to a petition for rule making filed on behalf of Equity Broadcasting Corporation ("petitioner"), permittee for Station KKYK-TV, Channel 49, El Dorado, Arkansas, proposing the reallocation of Channel 49 from El Dorado to Camden, Arkansas, as that community's first local television service. Petitioner filed supporting comments in response to the Notice. No other comments were received.

2. As stated in the Notice, the instant petition for rule making was filed pursuant to the provisions of Section 1.420(i) of the Commission's Rules which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest where the requested allotment would be mutually exclusive with the existing authorization. See Modification of FM and TV Authorizations to Specify a New Community of License ("Change of Community RO&O"), 4 FCC Rcd 4870 (1989), recon. granted in part "Change of Community MO&O", 5 FCC Rcd 7094 (1990).

3. Additionally, the Notice announced that the proposed reallocation of Channel 49 to Camden would result in a preferential arrangement of allotments by providing a first local television transmission service to Camden in conformity with our allotment priorities,¹ while not depriving El Dorado of local television service. See Johnstown and Jeannette,

¹The television allotment priorities are: (1) provide at least one television service to all parts of the United States; (2) provide each community with at least one television broadcast station; (3) provide a choice of at least two television services to all parts of the United States; (4) provide each community with at least two television broadcast stations; and (5) assign any remaining channels to communities based on population, geographic location, and the number of television services available to the community from stations located in other communities. See Sixth Report and Order on Television Allocations, 41 FCC 148, 167 (1952).

Pennsylvania, 12 FCC Rcd 10300 (1997).

4. Camden (population 14,380),² the seat of Ouachita County, is not part of any urbanized area. The Notice recognized that Camden is a self-sustained community containing its own government, police and fire departments, post office, zip code, library, public schools, churches, two newspapers, a Chamber of Commerce as well as civic and community groups. Rand McNally also designated Camden as a Primary Business Center in 1995.³

5. As stated in the Notice, no change in the authorized site for Station KKYK-TV is contemplated. Therefore, the 80 dBu predicted community contour of Station KKYK-TV will remain the same if reallocated to Camden, as will the area and population to be served. Nor will the requested reallocation of Channel 49 from El Dorado to Camden create any white or gray area or any change in service.

6. The DTV Table contained in Section 73.622(b) of the Commission's Rules is not affected by the requested reallocation of Channel 49 to Camden. As the construction permit for Station KKYK-TV was issued after the cut-off date established in the Sixth Report and Order on Digital Television Service, 12 FCC Rcd 14588, 14593 (1997), it did not qualify for a pre-designated DTV allotment and we have no request before us for a paired DTV channel at Camden. Furthermore, the instant proposal will not result in a new allotment but rather the reallocation of an existing one without a change in the transmitter site.⁴

7. We believe the public interest would be served by reallocating Channel 49 from El Dorado to Camden, Arkansas, and modifying the authorization for Station KKYK-TV accordingly. Our analysis is based on the petitioner's showing that the reallocation to Camden will result in a preferential arrangement of allotments. See Community of License R&O at 4873, and the Sixth Report and Order, *supra*. Camden will be provided with its first local television service and El Dorado will not be left unserved.

8. Channel 49 can be allotted to Camden, Arkansas, in conformity with the minimum distance separation requirements set forth in Sections 73.610 and 73.698 of the Commission's Rules, utilizing the petitioner's currently authorized transmitter site located 36.8 kilometers (22.9

²Population figure was taken from the 1990 U.S. Census.

³A Principal Business Center is defined by Rand McNally as a city of major economic importance that includes, but is not limited to Basic or Major Trading Centers.

⁴See Advanced Television Systems and Their Impact on the Existing Television Broadcast Service, Order, 52 Fed. Reg. 28,346, July 29, 1987. See also, Sixth Further Notice of Proposed Rule Making in MM Docket No. 87-268 (1996), 61 FR 43209, August 21, 1996, wherein the Commission advised that although rule making petitions filed after July 25, 1996, proposing to amend the TV Table of Allotments to add an allotment for a new NTSC station would no longer be accepted, reallocation proposals to change a station's community of license may continue to be filed.

miles) south of Camden at coordinates 33-16-19 NL and 92-42-11 WL.

9. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective August 9, 1999, the TV Table of Allotments, Section 73.606(b) of the Commission's Rules, IS AMENDED with respect to the communities listed below, as follows:

<u>City</u>	<u>Channel No.</u>
Camden, Arkansas	49-
El Dorado, Arkansas	10-, *30+, 43-

10. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the authorization of Equity Broadcasting Corporation for Station KKYK-TV, El Dorado, Arkansas, IS MODIFIED to specify operation on Channel 49- at Camden, Arkansas, in lieu of El Dorado, Arkansas, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

11. Pursuant to Commission Rule Section 1.1104(3)(l), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Equity Broadcasting Corporation, permittee of Station KKYK-TV, is required to submit a rule making fee in addition to the fee required for the applications to effect the change in community of license at Camden, Arkansas.

12. IT IS FURTHER ORDERED, That the Commission's Office of Public Affairs, Reference Operations Division, SHALL SEND a copy of this Order to the following:

Equity Broadcasting Corporation
1 Shackelford Drive
Suite 400
Little Rock, AR 72211

13. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

14. For further information concerning the above, contact Nancy Joyner, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau